IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH AT HYDERABAD

THE HON'BLE SRI. JUSTICE NOOTY RAMAMOHANA RAO

WRIT PETITION No. 10438 OF 1997

DATED: 27-11-2006

BETWEEN:

Paladugu Lokanath and another

.....Petitioners

AND

Government of Andhra Pradesh,
Represented by the District Collector,
Anantapur district, Anantapur
and another

.....Respondents

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THE HON'BLE SRI JUSTICE NOOTY RAMAMOHANA RAO

WRIT PETITION No. 10438 OF 1997

ORDER:

This writ petition has been filed seeking a direction to respondent No.2 to make a reference to the civil Court under Section 18 of the Land Acquisition Act, 1894 (for short 'the Act') for determination of the correct value of the land acquired.

The case of the writ petitioners is that the father of petitioner No.1, and the husband of the writ petitioner No.2, viz.,
Sri Paladugu Veerappa was the absolute owner of an extent of Acs.29-05 cents of land in Survey No. 259 of Chetnepalli near Gooty. The State wanted to compulsorily acquire land of an extent of Ac.2-50 cents for the purpose of providing house sites to the weaker sections of the society. In those set of circumstances, the land belonging to Sri Paladugu Veerappa in Sy.No.259 in an extent of Ac.2-50 cents has been notified. However, Sri Veerappa seems to have constructed a residential house exactly in the same area, which was proposed for acquisition and, therefore, he resisted the attempts of the State for acquiring that piece of land. When the elders of the society have intervened and impressed upon Sri Veerappa that the land in question is needed for providing house sites to the weaker sections, he had agreed to part with an extent of Acs.2-50 cents of land situated in the same survey number but slightly away from the proposed acquisition so that his own residential unit will not get disturbed and at the same time, the over all objective of the proposed acquisition can also be met with. Therefore, an agreement has been worked out amongst all the parties on 13-11-1992. Accordingly, land of an extent of Acs.2-50 cents has been transferred in favour of the Government by handing over possession of the same so that the proposed house sites for the weaker sections can be allotted and at the same time, the land which is notified for acquisition can also be saved.

A detailed counter affidavit has been filed in the matter pointing out that for the initially acquired land, an award has been passed bearing Award No.52/77-78 dated 14-11-1977. It has also

been admitted that there was a compromise affected on 13-11-1992 and that Sri Veerappa had handed over the possession of an equal extent and equally suitable land. However, the fact remains that the land in question, which has been ultimately made over to the State Government is entirely different from the land for which the acquisition proposals have been worked out and for which Award No.52/77-78 was passed on 14-11-1977. Therefore, realizing that no useful purpose would be served even if the writ petition is allowed and even if a reference is made to the civil Court for the determination of the true market value of the land, the civil Court would not be in a position to determine the value of the land which stood made over to the Government duly swapping the same with the proposed land, the petitioners have now filed WPMP No.31585 of 2006 seeking to amend their prayer. They now solicit that a direction be issued to the respondents to pass fresh award with respect to the land of an extent of Acs.2-50 cents which has been taken possession of in exchange for the land which stood notified vide notification under Section 4(1) of the Act dated 05-10-1977. The amendment petition has been allowed.

The fact remains that the State Government wanted to compulsorily acquire an extent of Acs.2-50 cents of land for a public purpose viz., for providing house sites to the weaker sections. Therefore, they entered into a compromise with the writ petitioners' predecessor in interest and accordingly, they have been handed over an extent of Acs.2-50 cents which is a slightly different land from the one which has been proposed for acquisition under Section 4(1) of the Act. Therefore, Award No.52/77-78, which was said to have been passed on 14-11-1977 in fact became redundant. The land which stood ultimately acquired by the State being different, a fresh award is required to be passed. Since the petitioners' predecessor in interest has agreed for such an acquisition for which a fresh award has to be passed, I direct the Collector to pass an appropriate award fixing the

market value payable for the acquisition of land of an extent of Acs.2-50 cents and communicate the same to the petitioners within a period of two months from today.

The writ petitioners are at liberty to produce such material as is considered appropriate by them to enable the District Collector to determine the value of the land correctly.

The writ petition is accordingly disposed of.

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(NOOTY RAMAMOHANA RAO, J)

Dated: 27-11-2006
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